

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
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August 28, 2006

Dr. Asaad Awan, Chair
Washington State Board of Pharmacy
Box 359885
Seattle, WA 98104

Dear Dr. Awan:

Enclosed with this letter is an alternative pharmacist responsibility rule that I, alongside numerous organizations including the Washington State Pharmacy Association and Planned Parenthood of Washington, have agreed to. I recommend that the Board of Pharmacy adopt this version in place of its draft rule initiated on June 1, 2006.

This alternative represents many hours of negotiation to delicately balance our respect for patients, pharmacists, and pharmacies. My office held several multi-hour negotiation sessions with key stakeholders at the table, including Donna Dockter from the Board of Pharmacy, Don Downing from the University of Washington School of Pharmacy, and representatives from Planned Parenthood, the Washington State Pharmacy Association, the Northwest Women's Law Center, the Department of Health, the Board of Pharmacy's legal team, and others. I also met individually with Donna Dockter and Don Downing, and my office has had numerous one-on-one conversations with other parties to understand their perspectives.

I present this alternative rule as the most reasonable compromise. It clearly states that pharmacies have a duty to dispense lawfully prescribed drugs and recognizes the role of pharmacists in using their professional expertise to determine reasonable exceptions to that duty and maintain patient safety. While I was not able to reach full accord with Donna Dockter, we did reach an accord with organizations such as the Washington State Pharmacy Association and Planned Parenthood through a process of consensus and compromise. I am very pleased with the team's work and commend their efforts to negotiate in good faith on this issue.

I strongly recommend that the Board of Pharmacy adopt this finely negotiated version, without amendment, at your August 31st meeting. Please feel free to contact Marty Brown, my Legislative Director, at (360) 902-0390, or Christina Hulet, my Health Policy Advisor, at (360) 902-0660, if you have additional questions.

Sincerely,

A handwritten signature in black ink that reads "Chris Gregoire".

Christine O. Gregoire
Governor

Enclosure



cc: Members of the Board of Pharmacy (BOP
Mary Selecky, Secretary, Department of Health
Steven Saxe, Executive Director, Board of Pharmacy
Marty Brown, Governor's Office
Christina Hulet, Governor's Office

PROPOSED ALTERNATIVE
August 28, 2006

WAC 246-863-095 Pharmacist's professional responsibilities.

(1) A pharmacist's primary responsibility is to ensure patients receive safe and appropriate medication therapy. Pharmacies have a duty to dispense lawfully prescribed legend drugs or devices, and to distribute drugs and devices approved by the U.S. food and drug administration for restricted distribution by pharmacies, or provide a therapeutically equivalent drug or device in a timely manner consistent with reasonable expectations for filling the prescription, except for the following or substantially similar circumstances:

- (a) Potential drug therapy contraindications;
- (b) National or state emergencies or guidelines affecting availability or supplies of drugs or devices;
- (c) Lack of specialized equipment or expertise needed to safely produce, store, or dispense drugs or devices, such as certain drug compounding or storage for nuclear medicine;
- (d) Potentially fraudulent prescriptions;
- (e) Unavailability of drug or device despite good faith compliance with WAC 246-869-150;

(2) Nothing in this rule requires pharmacists to dispense a drug or device without payment of their usual and customary or contracted charge.

(3) If despite good faith compliance with WAC 246-869-150, the lawfully prescribed drug or device is not in stock, the pharmacy shall provide the patient or agent a timely alternative for appropriate therapy which, consistent with customary pharmacy practice, may include obtaining the drug or device. These alternatives include but are not limited to:

- (a) Contact the prescriber for authorization to substitute a “therapeutically equivalent” product pursuant to Chapter 246-899 WAC;
- (b) If requested by the patient or their agent, return unfilled lawful prescriptions to the patient or agent; or
- (c) If requested by the patient or their agent, communicate or transmit, as permitted by law, the original prescription information to a pharmacy of the patient’s choice that will fill the prescription in a timely manner.

(4) A pharmacist shall not delegate the following professional responsibilities:

- (a) Receipt of a verbal prescription other than refill authorization from a prescriber.
- (b) Consultation with the patient regarding the prescription, both prior to and after the prescription filling and/or regarding any information contained in a patient medication record system provided that this shall not prohibit pharmacy ancillary personnel from providing to the patient or the patient’s health care giver certain information where no professional judgment is required such as dates of refills or prescription price information.
- (c) Consultation with the prescriber regarding the patient and the patient’s prescription.
- (d) Extemporaneous compounding of the prescription, however bulk compounding from a formula and IV admixture products prepared in accordance with chapter 246-871 WAC may be performed by a pharmacy technician when supervised by a pharmacist.
- (e) Interpretation of data in a patient medication record system.

- (f) Ultimate responsibility for all aspects of the completed prescription and assumption of the responsibility for the filled prescription, such as: Accuracy of drug, strength, labeling, proper container and other requirements.
 - (g) Dispense prescriptions to patient with proper patient information as required by WAC 246-869-220.
 - (h) Signing of the poison register and the Schedule V controlled substance registry book at the time of sale in accordance with RCW 69.38.030 and WAC 246-887-030 and any other item required by law or rule to be signed or initialed by a pharmacist.
 - (i) Professional communications with physicians, dentists, nurses and other health care practitioners.
 - (j) Decision to not dispense prescriptions for any reason.
- (5) Utilizing personnel to assist the pharmacist.
- (a) The responsible pharmacist manager shall retain all professional and personal responsibility, as shall the pharmacy employing these personnel. The responsible pharmacist manager shall determine the extent to which personnel may be utilized to assist the pharmacist and shall assure that the pharmacist is fulfilling his or her supervisory and professional responsibilities.
 - (b) This does not prohibit delegation to an intern or extern.
- (6) It is considered unprofessional conduct for a pharmacist to engage in any of the following:
- (a) Destroy unfilled lawful prescription;
 - (b) Refuse to return unfilled lawful prescriptions;
 - (c) Violate a patient's privacy;

(d) Discriminate against patients or their agent in a manner prohibited by state or federal law;

(e) Intimidate or harass a patient.